

**Alaska Department of Environmental Conservation**  
**Air Permits Work Group**  
October 25, 2002 Meeting Summary  
Alaska Housing Finance Corporation fourth floor conference room  
8:30 a.m. to 3:45 p.m.

Air Permits Work Group members present: Jordan Jacobsen, Tom Kuckertz, Charlotte MacCay, Mike Munger, Kate Siftar, T.C. Wilson and ADEC Air and Water Quality Director Tom Chapple. Participating by teleconference were Stephanie Madsen and ADEC Air Permits Manager John Kuterbach.

John Pavitt, inspector with the EPA Alaska Operations Office, was in attendance. Bonnie Thie, acting director, Office of Air Quality, US EPA, Region 10, attended a portion of the meeting by teleconference.

Invited Presenter: Dave Ouimette, Air Quality Manager, Colorado

Task Force Facilitation Team: Brian Rogers, Judith Erickson

Members of the public also attended.

### Summary

The work group approved additions to the September 23 meeting summary offered by Tom Kuckertz. The added language lays out the problem the work group was formed to address and the goal of developing a clear, unambiguous, workable action plan for development and implementation of a business model that allows ADEC to accomplish its air quality permits mission.

In an e-mail message to facilitator Brian Rogers, Chugach Electric Association asked that the summary reflect that although it is a member of ARECA, Chugach will be sending a representative to the work group meetings to provide its views on work group issues.

The work group established subgroups to work on specific issues and bring recommendations back to the full work group at the November 20 meeting. The subgroups will circulate their drafts to all work group members before the November meeting.

### *Subgroups*

- *Mission statement subgroup.* Charlotte MacCay and Tom Kuckertz will use information submitted at the meeting by ADEC (1993 air permits legislation intent and goals and ADEC's mission and measures as established by the Legislature in HB 250 relevant to the Air Permitting Program) to develop a draft mission statement for the Air Permitting Program. The work group was asked by a member of the public to take appropriate notice of court decisions and the Alaska Constitution when drafting a mission statement for the division.

- *Temporary fixes for the Title V Program subgroup.* Kate Siftar, Jordan Jacobsen, Tom Chapple and John Kuterbach take the work group's recommendations for temporary fixes to enable the Air Permit Program to issue all Title V operating permits by November 2003, and craft them into a document that lists the options for and consequences of each recommendation. Assistant Attorney General Sara Trent will assist the subgroup with this effort.

- *Fee structure subgroup.* Jordan Jacobsen will work with John Kuterbach to draft a discussion paper detailing the Air Permit Program's fee structure, the pros and cons of fee structures in other states and a proposed alternative fee structure for Alaska. John Pavitt with EPA's Alaska office offered to provide information his organization has gathered on fee structures in other western states. Information on fees in the Benchmarking Study will also be used in this analysis.

- *Subgroup on comparison of Alaska's Title V permitting program with other state programs.* Jordan Jacobsen will prepare a side-by-side analysis of the significant differences between Alaska's Title V permit program and those in several states as a starting point for the discussion of developing a common understanding of what ADEC is required by Title V to put in its permits. The analysis will focus on monitoring, reporting and record keeping requirements. Jacobsen was asked to select states with industries similar to Alaska and show the range of monitoring required by those states, from the average to most stringent. He will forward the analysis to the division for review before the November meeting. Tom Chapple said this is a critical issue the work group needs to tackle. He pointed out that there are clear differences between the regulated community's view of what must be included in permits and what ADEC believes are its obligations under the rules of the Clean Air Act. Chapple urged the work group to develop an understanding of the common practices in other states, and identify if and why Alaska differs. "If there's an anomaly, then we'll do a course correction. But we need to bring this issue to the foreground."

The work group as a whole will review the following issues for the November meeting.

- Work group members were asked to read the *Benchmarking Initiative Status Report*, prepared by Environmental Associate Jim Baumgartner. At the November meeting work group members will prioritize ADEC's implementation of the recommendations in the Benchmarking study to make procedure and process improvements to the construction permitting program.

- Unique characteristics in Alaska: Work group members will review a draft paper on Alaska's unique characteristics prepared by Charlotte MacCay and offer recommended changes and additions.

### **Work Group suggestions: Temporary fixes to Title V Program**

Work group members were asked at the September meeting to contact their constituent groups to solicit ideas to help ADEC address its backlog in issuance of Title V permits. Tom Chapple explained that ADEC has entered into an agreement with the Environmental Protection Agency (EPA) to issue all Title V permits by November 2003. Funding issues, however, could prevent the department from meeting this schedule.

Air Permit Manager John Kuterbach said if he can keep all his permit writers employed, the division will meet the November 2003 schedule. He noted that he has recently moved one employee from the compliance section to fill a vacancy in operating permits. "That will enable us to meet our schedule."

Kuterbach explained that the division will experience a cash flow problem this spring if he fills the four new oil and gas positions the Legislature authorized in the FY 03 budget. These new employees will not be able to bill enough to pay for themselves until they have more experience with the air permitting program. Additionally, emissions fees, which are intended to cover the division's overhead costs, will not be adequate to support emission fee-supported work. "Even though the Legislature says we can spend the money, we won't have the money in the bank to spend."

To make up this funding shortage, so the division can keep its permit writers working, Kuterbach said he will reassign division staff to permit writing, so more are billing for their time. This will result in reductions in inspections, compliance assistance work, complainant response, and work on the state implementation plan (SIP) and regulation changes. Kuterbach noted that compliance staff bill fewer hours than permit writers and generally do not bill enough to pay for their positions.

Work group members proposed several temporary fixes for the Title V program that will be further investigated by a subgroup.

- Allow regulated facilities to elect to pay their emissions fees based on projected rather than actual emissions, alleviating this fiscal year's funding shortfall. Any excess fees could be credited to the facilities and applied to the resolution of future settlements.
- Encourage federal facilities to negotiate with the EPA to use SEPs (supplemental environmental projects) to fund third-party contractors to assist regulated facilities with permit writing or to provide training for ADEC permit writers. ADEC would develop a list of approved contractors and would oversee the contractors' work. This would hopefully result in more complete and higher quality permits that have fewer compliance problems. Third-party contractors would be required to provide public access to the permitting process.
- Streamline the permitting process by preparing permit templates for like facilities.
- Encourage permit applicants to cut and paste from existing approved permits when preparing draft permits.
- Seek an increase in the legislative authorization for the program and increased fees to meet that authorization. It will take over six months to make a regulatory change in the fee schedule. ADEC currently charges \$5.07 per ton in emissions fees and a \$78 an hour fee for permit administration.
- Charge a modest overhead fee on hourly billings to recognize legitimate costs beyond permit writing, such as training and file maintenance.
- Encourage better permit applications by moving permit applicants with reasonable draft permits to the front of the review line.
- Work on measures to streamline the air permit program.
- Reevaluate what services are billable.
- Triage compliance issues and focus on those that are the most pressing.

### **Report on Colorado's Air Quality Program**

The work group had requested a presentation from a state that has a well-run Title V program and industries similar to Alaska. Dave Ouimette, manager of Colorado's stationary sources program, presented a PowerPoint presentation on Colorado's Air Quality Program. Ouimette discussed the organization and structure of the Colorado Air Pollution Control Division, the types and number of permits issued annually, the types of sources regulated, the division's budget and funding structure and administrative controls. Ouimette said Colorado has faced many similar problems as Alaska's Air Quality Program. He reviewed some of those problems and how Colorado has addressed them.

An outline of Ouimette's presentation can be found on the Air Permits Work Group web site at <http://www.state.ak.us/dec/dawq/aqm/document.htm>

### **Comparison: ADEC and EPA rules, authority and costs for air permitting**

Air Permit Program Manager John Kuterbach and environmental associates Bill Walker and Jim Baumgartner provided the work group with a comparison of ADEC air quality programs and potential

federal programs. The comparison addressed the Title V program, SIP and prevention of significant deterioration (PSD) program. Bonnie Thie, acting director for EPA's Seattle office, was on teleconference for this presentation.

A table comparing these programs can be found on the Air Permits Work Group web site at: <http://www.state.ak.us/dec/dawq/aqm/document.htm>

- The Title V comparison looked at the differences between ADEC and an EPA part 71 program in the following areas: permit avoidance measures, fees, program applicability, EPA and public objections to permits, schedules for issuance and permit duration.
- A comparison of ADEC's SIP and a potential EPA implementation plan addressed general Clean Air Act requirements, permit programs, ambient analysis and general opacity standards.
- Issues compared between ADEC's PSD program and a potential federal program included staff resources and fees, schedules for permit issuance, permit or PSD classification avoidance, best available control technology (BACT) determinations, definitions of "begin" and "actual construction," emission increases and decreases, modifications and exemptions, air quality related values (AQRVs), variances and interpretations of Class I areas. Data was provided on the length of time it has taken ADEC to issue PSD permits from both initial application to a final decision and from revised application to final decision. The data was compiled for the years 1998 through 2001.
- The NESHAPs (national emissions standards for hazardous air pollutants) program is partially delegated to the state. Division staff pointed out what portions of the program the EPA has delegated to ADEC, and what it has retained. The EPA retains the sole responsibility for making interpretations in those areas where it does not delegate authority.
- The EPA has only delegated partial NSPS (new source performance standards) authority to ADEC for four source types, but ADEC has applied for and is expecting to receive additional delegation. ADEC staff said the department expects the EPA to delegate the NSPS program in a manner similar to the delegation for the NESHAPs program.

### **Presentation: ADEC Air Permit Program Mission**

Tom Chapple briefly described a document ADEC prepared to assist the work group in developing a mission for the Air Permit Program. He said his objective in developing this document was to put "as much feedstock on the table as he has" that explains what the air program does and why. The document details the legislative intent and goals in the 1993 air permits legislation. Also included are missions and performance measures for each division within ADEC. Chapple said this information comes from the handout the department has used during the past three legislative sessions to explain ADEC's services and functions to lawmakers.

The missions and measures document can be found on the Air Permits Work Group web site at: <http://www.state.ak.us/dec/dawq/aqm/document.htm>

### **Unique characteristics in Alaska**

Work group member Charlotte MacCay said her first draft paper detailing Alaska unique characteristics is an attempt to codify what makes Alaska different from other states. She said these characteristics should be written into Alaska's air quality regulations and air permitting guidance documents.

MacCay said she tried to put together a comprehensive list of Alaska's unique characteristics that could be used to help weigh the pros and cons of state versus federal primacy. She said Alaska is unique and a

deviation from the norm, but the EPA is seeking national norms. “We need to be precise in articulating our differences. What is best for one place might not be best for someplace else.”

Work group members were asked to review the draft document and provide comments to the facilitation team. The comments will be compiled into a new draft for review by the work group at the November meeting.

The first draft document can be found on the Air Permits Work Group web site at:  
<http://www.state.ak.us/dec/dawq/aqm/document.htm>

### **Work Group meeting schedule:**

The work group will hold two more meetings this year.

November 20, 9:00 a.m. to 4:30 p.m.

December 17, 9:00 a.m. until work is completed.

Meeting notices and agendas will be posted on the web site.

### **November meeting agenda:**

Work group members agreed on the following topics for their November 20 meeting agenda.

- A presentation from air permitting staff in Utah or another state that adopted the Part 71 program as its own.
- Prioritization of recommendations in Benchmark Study
- Subgroup reports
  - Temporary fixes Title V program
  - Mission statement
  - Comparison of Alaska’s Title V permitting program with other states.
  - Air Permit Program fees and legislative authorization
  - Continued work on identifying Alaska’s unique characteristics.

The draft agenda for the November 20 meeting will be prepared based on the work produced by the subgroups.